

1 CLEMENT SETH ROBERTS (STATE BAR NO. 209203)
croberts@orrick.com
2 BAS DE BLANK (STATE BAR NO. 191487)
basdeblank@orrick.com
3 ALYSSA CARIDIS (STATE BAR NO. 260103)
acaridis@orrick.com
4 ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
5 405 Howard Street
San Francisco, CA 94105-2669
6 Telephone: +1 415 773 5700
Facsimile: +1 415 773 5759
7
8 SEAN M. SULLIVAN (*pro hac vice*)
sullivan@ls3ip.com
9 J. DAN SMITH (*pro hac vice*)
smith@ ls3ip.com
MICHAEL P. BOYEA (*pro hac vice*)
10 boyea@ ls3ip.com
COLE B. RICHTER (*pro hac vice*)
11 richter@ls3ip.com
LEE SULLIVAN SHEA & SMITH LLP
12 656 W Randolph St., Floor 5W
Chicago, IL 60661
13 Telephone: +1 312 754 0002
Facsimile: +1 312 754 0003
14
15 *Attorneys for Sonos, Inc.*
16
17
18
19

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN FRANCISCO DIVISION

20 SONOS, INC.,
21 Plaintiff and Counter-defendant,
22 v.
23 GOOGLE LLC,
24 Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA
**SONOS, INC.’S OPPOSITION TO
GOOGLE LLC’S MOTION IN LIMINE
NO. 3**

Judge: Hon. William Alsup
Pretrial Conf.: May 3, 2023
Time: 12:00 p.m.
Courtroom: 12, 19th Floor
Trial Date: May 8, 2023

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Google’s Motion *in Limine* No. 3 seeks to exclude Sonos’s technical expert, Dr. Kevin Almeroth, and Sonos’s damages expert, Mr. James Malackowski, from providing opinions that Google’s purported non-infringing alternatives for the ’885 and ’966 patents are not viable because they infringe other *unasserted* Sonos patents. *See Mot.* at 1-3.

II. ARGUMENT

While Sonos disagrees with the assertions set forth in Google’s Motion *in Limine* No. 3, Dr. Almeroth and Mr. Malackowski will not provide opinions at the upcoming trial that Google’s purported non-infringing alternatives for the ’885 and ’966 patents infringe *unasserted* Sonos patents.

However, Sonos will present argument that Google's purported non-infringing alternatives for the '885 and '966 patents still infringe the *asserted* '885 and/or '966 patents. Additionally, Sonos and/or its witnesses may reference and/or rely on other unasserted Sonos patents for other purposes.

III. CONCLUSION

Google's Motion *in Limine* No. 3 is moot.

Dated: April 24, 2023

ORRICK HERRINGTON & SUTCLIFFE LLP
and
LEE SULLIVAN SHEA & SMITH LLP

By: /s/ Clement Seth Roberts
Clement Seth Roberts

Attorneys for Sonos, Inc.

1 **ATTESTATION**

2 I, Sean Pak, am the ECF user whose ID and password are being used to file the above
3 document. In compliance with Civil L.R. 5-1, I hereby attest that counsel for Sonos has concurred in
4 the aforementioned filing.

5
6 DATED: April 26, 2023

7 */s/ Sean Pak* _____

8 Sean Pak

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28